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Attorneys for Defendants  
BAUER'S LIMOUSINE SERVICE, INC.  
and GARY BAUER

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROGER PORTER, MICHAEL KRAFT, and  
BEN ROSS, on their own behalf and on behalf  
of all others similarly situated,

Plaintiffs,

v.

BAUER'S LIMOUSINE SERVICE, INC., a  
California corporation, and GARY BAUER, an  
individual,

Defendants.

Case No. 3:10-CV-01074-JSW

**JOINT STIPULATION AND  
[PROPOSED] ORDER RE: DISMISSAL  
WITH PREJUDICE**

Complaint Filed: March 12, 2010  
First Amended Complaint Filed: April 9, 2010  
Second Amended Complaint Filed: August 24,  
2010

STIPULATION AND [PROPOSED] ORDER  
RE: DISMISSAL WITH PREJUDICE

(NO. 3:10-CV-01074-JSW)

1 The Parties to the above-entitled action jointly submit this Stipulation and [Proposed]  
 2 Order requesting dismissal with prejudice. The Parties reached a complete settlement of the named  
 3 Plaintiffs' claims in the above-captioned matter.

4 As part of the informal discovery process leading up to the parties' settlement,  
 5 Plaintiffs' were provided with, and reviewed, a document issued by the federal Department of  
 6 Transportation ("DOT"), dated October 9, 2008, which document contained the results of a DOT  
 7 inspection regarding Bauer's (DOT# 1083917) compliance with federal hours of service regulations  
 8 requiring the completion of a Record of Duty of Status ("RODS") form.<sup>1</sup> The driver of the vehicle  
 9 in question was, at that time, engaged in performing "corporate" services, as that term is defined in  
 10 Paragraph 11 of the Second Amended Complaint (Document No. 33) on file in this matter. Plaintiffs  
 11 (through their undersigned counsel) and Bauer's agree that this DOT investigation demonstrates that,  
 12 as of October 9, 2008, the DOT had the power to regulate Bauer's corporate drivers' hours of service  
 13 within the meaning of 29 U.S.C. § 213(b) and Section 3(L)(1) of California Industrial Commission  
 14 Wage Order 9-2001. Plaintiffs' counsel agree they have received the above-referenced document.

15 Thus, the Parties, through their undersigned counsel, respectfully request that the  
 16 Court enter this Stipulation as an Order.

17 **IT IS SO STIPULATED.**

18 Each of the undersigned certify that the content of the foregoing document is  
 19 acceptable to all persons required to sign the document and authorization to electronically sign this  
 20 document has been obtained.

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28 <sup>1</sup> These documents were bates-stamped BAUERS000427-432.  
 STIPULATION AND [PROPOSED] ORDER  
 RE: DISMISSAL WITH PREJUDICE

1 Dated: November \_\_\_\_, 2010

Respectfully submitted,

2  
3 /s/ Benjamin K. Lunch  
4 WILLIAM J. FLYNN  
5 BENJAMIN K. LUNCH  
Attorneys for Plaintiff  
6 ROGER PORTER

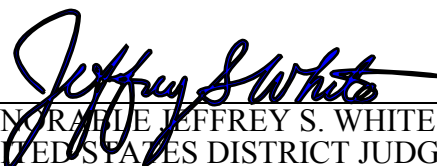
7 Dated: November \_\_\_\_, 2010

Respectfully submitted,

8 /s/ Joshua D. Kienitz  
9 ROBERT A. HULTENG  
10 JOSHUA D. KIENITZ  
11 RYAN E. ABERNETHY  
12 LITTLER MENDELSON P.C.  
Attorneys for Defendants  
13 BAUER'S LIMOUSINE SERVICE, INC.  
14 AND GARY BAUER

15 **IT IS HEREBY ORDERED THAT** the, pursuant to the parties' Stipulation and  
16 settlement, Plaintiffs' claims, as embodied in the Second Amended Complaint in this matter  
(Document No. 33), are dismissed in their entirety, and with prejudice.

17  
18 Dated: December 3 \_\_\_\_, 2010

  
HONORABLE JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE

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STIPULATION AND ~~[PROPOSED]~~ ORDER  
RE: DISMISSAL WITH PREJUDICE